

2009 DRAFTING REQUEST

Senate Joint Resolution

Received: 11/20/2008

Received By: rchampag

Wanted: Soon

Identical to LRB:

For: Tim Carpenter (608) 266-8535

By/Representing: Stuart

This file may be shown to any legislator: NO

Drafter: rchampag

May Contact:

Addl. Drafters:

Subject: Constitutional Amendments

Extra Copies: SRM; MES

Submit via email: YES

Requester's email: Sen.Carpenter@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Partial veto power of county executive

Instructions:

Have county exec's partial veto power over appropriations coextensive with governor's veto power over appropriations bills.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	rchampag 11/24/2008	kfollett 11/25/2008	phenry 11/25/2008	_____	cduerst 11/25/2008	cduerst 02/03/2009	

FE Sent For: N/A

<END>

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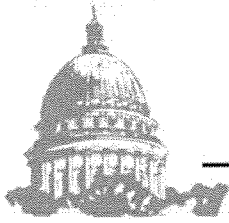
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FE Sent For:

<END>



WISCONSIN STATE SENATOR
TIM CARPENTER
SENATOR – 3RD DISTRICT

State Capitol • PO Box 7882 • Madison, WI 53707-7882 • Phone: (608) 266-8535

November 21, 2008
For Immediate Release

Contact:
State Senator Tim Carpenter
(608) 266-8535

Carpenter Announces Legislation to Limit County Executive Veto Power

Madison — State Senator Tim Carpenter (D-Milwaukee) announced today that he is drafting legislation to limit the ability of county executives to use “creative” vetoes to create entirely new budget appropriations. Carpenter’s proposed legislation would limit a county executive’s veto authority to those powers granted by the state constitution to the governor.

Senator Carpenter was the lead Senate author of legislation last session that successfully placed on the state-wide ballot a referendum to change the constitution to limit the governor’s ability to stitch together words from two or more sentences to create new law, also known as the “Frankenstein veto” (2007 SJR 5). This change was approved by 71% of the voters in April of 2008. Senator Carpenter also previously voted for eliminating the governor’s use of the “Vanna White veto” (grabbing letters like the famed game show hostess from a budget appropriation to form new words).

Senator Carpenter announced this new legislation after Milwaukee county executive, Scott Walker, brazenly used such veto tactics on the latest county budget. “The voters of Milwaukee County, along with the voters of Wisconsin, have consistently expressed their displeasure at using vetoes to create entire new words and phrases that were not included in budget language. The people do not believe this is an appropriate use of executive budgetary authority” said Carpenter.

“I have consistently voted to limit both types of partial vetoes, under both Democratic and Republican administrations. This is not a partisan issue – it is a question of good government, and accountability to voters. An executive should not be able to suture together letters and words from a budget to create laws never considered by the people’s budget-writing representatives, whether such representatives sit in the state legislature or on a county board,” said Carpenter.

“I am particularly amazed that a county executive in Milwaukee would attempt such vetoes,” said Carpenter. “Milwaukee County voters have consistently expressed their distrust of the excesses of partial veto abuse. Asked on state-wide referendums to limit the Wisconsin governor’s veto powers, 65% of Milwaukee County voted to eliminate the Vanna White Veto and 66% voted to eliminate the Frankenstein Veto,” added Carpenter.

Senator Carpenter pointed out that prior to eliminating the Vanna White and Frankenstein veto, the veto powers of the governor and the county executives were equivalent. "My proposed legislation will return the harmony between the veto powers of governor and county chief executives. Additionally, it will ensure for the future that if the people of the state of Wisconsin change the veto powers of the governor that such power will once again be applicable to county executives.

Senator Carpenter will introduce the resolution to make the necessary changes to the state constitution when the legislature convenes early next year. In order to change the constitution, the resolution must pass two consecutive sessions of the legislature, and then be passed by a majority of the voters in a state-wide referendum



soon

2009 SENATE JOINT RESOLUTION

- gen. cat

- 1 **Relating to:** veto power of county executive over appropriations (first
2 consideration).

Analysis by the Legislative Reference Bureau

two The constitution grants the chief executive of a county the power to approve appropriations contained in resolutions or ordinances in whole or part. This executive power is similar to that granted the governor with respect to appropriations bills. In fact, in 1984, the attorney general opined that the county executive's veto power over appropriations "is not dissimilar to that of the Governor" (OAG 27-84). This proposed constitutional amendment, proposed to the 2009 legislature on first consideration, provides that, in approving an appropriation in part, the county executive may not create a new word by rejecting individual letters in the words of the resolution or ordinance and may not create a new sentence by combining parts of 2 or more sentences of the resolution or ordinance. These are the identical restrictions that are currently placed on the governor in the exercise of his or her veto power over appropriations bills.

A proposed constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

3 ***Resolved by the senate, the assembly concurring, That:***

4 **SECTION 1.** Section 23a of article IV of the constitution is renumbered 23a (1)
5 of article IV of the constitution.

1 **SECTION 2.** Section 23a (2) of article IV of the constitution is created to read:

2 [Article IV] Section 23a (2) In approving an appropriation in part under sub. ✓

3 (1), the chief executive may not create a new word by rejecting individual letters in
4 the words of the resolution or ordinance and may not create a new sentence by
5 combining parts of 2 or more sentences of the resolution or ordinance.

6 *Be it further resolved, That* this proposed amendment be referred to the
7 legislature to be chosen at the next general election and that it be published for 3
8 months previous to the time of holding such election.

9 (END)

D-Note

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0872/lins
RAC:.....

INSERT 2-5

SECTION 1. Numbering of new provisions. The new subsection (2) of section 23a of article IV of the constitution created in this joint resolution shall be designated by the next higher open whole subsection number in that section in that article if, before the ratification by the people of the amendment proposed in this joint resolution, any other ratified amendment has created a subsection (2) of section 23a of article IV of the constitution of this state. If one or more joint resolutions create a subsection (2) of section 23a of article IV simultaneously with the ratification by the people of the amendment proposed in this joint resolution, the subsections created shall be numbered and placed in a sequence so that the subsections created by the joint resolution having the lowest enrolled joint resolution number have the numbers designated in that joint resolution and the subsections created by the other joint resolutions have numbers that are in the same ascending order as are the numbers of the enrolled joint resolutions creating the subsections.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0872/1dn

RAC: *ef*

Date

Senator Carpenter:

There are two general ways to draft this constitutional amendment limiting the partial veto power of the county executive over appropriations to that possessed by the governor. The first way is to do what I have done in this resolution. I amended section 23a of article IV to become section 23a (1) of article IV and created a new subsection that reads: "In approving an appropriation in part under sub. (1), the chief executive may not create a new word by rejecting individual letters in the words of the resolution or ordinance and may not create a new sentence by combining parts of 2 or more sentences of the resolution or ordinance." The virtue of this way is that it specifically spells out the restrictions on the county executive's veto power in the same way that they are spelled out with respect to the governor's veto power under section 10 (1)(c) of article V. I believe that this is the clearest and most direct way of limiting the county executive's power to that currently possessed by the governor. When the question is ultimately presented to the voters for ratification, they will clearly see and can understand what new restrictions are up for their approval.

X The other way to draft this constitutional amendment is, again, to amend section 23a of article IV to become section 23a (1) of article IV, but then to create a new subsection that reads: "In approving an appropriation in part under sub. (1), the chief executive is subject to the same restrictions under section 10 (1)(c) of article V as is the governor in approving appropriations bills in part." This amendment limits the veto powers of a county executive indirectly, by linking them via cross-reference to the restrictions imposed on the governor's exercise of the veto power. While this approach has the virtue of "piggybacking", as it were, on the restrictions imposed on the governor's exercise of the veto power, there are two problems.

X First, when the question is presented to the voters for ratification, they will not be able to clearly see what restrictions are being imposed on the county executive's exercise of the veto power. All that they will know is that these are the same restrictions as those placed on the governor. A legal issue might emerge as to whether the question clearly captures the proposed change in the constitution. At the very least, this may result in some confusion. Second, and perhaps more importantly, if someday the governor's veto powers are restricted even further by a later amendment to the constitution, then the question presented to the voters for ratification at that time may have to be posed in two parts—

em dash

executive's powers. Again, this may result in confusion, both legal and practical, in that any attempt to restrict the governor's veto power will necessarily entail a restriction of the county executive's veto power.

If you are satisfied with the first approach, then this joint resolution is ready for introduction. If you wish to pursue the second option, please advise and I will redraft the joint resolution.

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0872/1dn
RAC:kjf:ph

November 25, 2008

Senator Carpenter:

There are two general ways to draft this constitutional amendment limiting the partial veto power of the county executive over appropriations to that possessed by the governor. The first way is to do what I have done in this resolution. I amended section 23a of article IV to become section 23a (1) of article IV and created a new subsection that reads: "In approving an appropriation in part under sub. (1), the chief executive may not create a new word by rejecting individual letters in the words of the resolution or ordinance and may not create a new sentence by combining parts of 2 or more sentences of the resolution or ordinance." The virtue of this way is that it specifically spells out the restrictions on the county executive's veto power in the same way that they are spelled out with respect to the governor's veto power under section 10 (1) (c) of article V. I believe that this is the clearest and most direct way of limiting the county executive's power to that currently possessed by the governor. When the question is ultimately presented to the voters for ratification, they will clearly see and can understand what new restrictions are up for their approval.

The other way to draft this constitutional amendment is, again, to amend section 23a of article IV to become section 23a (1) of article IV, but then to create a new subsection that reads: "In approving an appropriation in part under sub. (1), the chief executive is subject to the same restrictions under section 10 (1) (c) of article V as is the governor in approving appropriations bills in part." This amendment limits the veto powers of a county executive indirectly, by linking them via cross-reference to the restrictions imposed on the governor's exercise of the veto power. While this approach has the virtue of "piggybacking," as it were, on the restrictions imposed on the governor's exercise of the veto power, there are two problems.

First, when the question is presented to the voters for ratification, they will not be able to clearly see what restrictions are being imposed on the county executive's exercise of the veto power. All that they will know is that these are the same restrictions as those placed on the governor. A legal issue might emerge as to whether the question clearly captures the proposed change in the constitution. At the very least, this may result in some confusion. Second, and perhaps more importantly, if someday the governor's veto powers are restricted even further by a later amendment to the constitution, then the question presented to the voters for ratification at that time may have to be posed in two parts — one to amend the governor's powers and one to amend the county

executive's powers. Again, this may result in confusion, both legal and practical, in that any attempt to restrict the governor's veto power will necessarily entail a restriction of the county executive's veto power.

If you are satisfied with the first approach, then this joint resolution is ready for introduction. If you wish to pursue the second option, please advise and I will redraft the joint resolution.

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.wisconsin.gov

Duerst, Christina

From: Ewy, Stuart
Sent: Tuesday, February 03, 2009 11:06 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-0872/1 Topic: Partial veto power of county executive

Please Jacket LRB 09-0872/1 for the SENATE.

If possible, could we have this today?

Thank you very much!

Regards,

G. Stuart Ewy
Office of Senator Tim Carpenter
State Capitol 306 S
608.266.8535